



STATE OF DELAWARE

Division of Development Disabilities Services Task Force

Meeting Minutes – November 20, 2019

1 Senator Stephanie L. Hansen, Co-Chair, called the meeting to order at 1:00 p.m. Those present
2 were Representative Kendra Johnson, Co-Chair, Marissa Catalon, Deputy Director for the
3 Division of Development Disabilities Service (DDDS), Laura Strmel, Director of Employment
4 Services at St. John's, Bianca Allegro, Director of Delaware Mentor, Terri Hancharick, Chair of
5 the Advisory Council for DDDS, Vice-Chair of the State Council for Persons with Disabilities,
6 Kyle Hodges, Policy Director for the State Council for Persons with Disabilities, Rita M. Landgraf,
7 University of Delaware and former Cabinet Secretary for Department of Health and Social
8 Services, Allan R. Zaback, Wilmington University, Senator Anthony Delcollo, via telephone, Gary
9 Cassedy, Vice-President of Programs with Easter Seals, Michele Mirabella, Director of Residential
10 Services for Chimes Delaware. Roy LaFontaine, III and Representative Kevin S. Hensley were
11 absent. A quorum was met.

12 Co-Chair Hansen asked for introductions of those in attendance and the organization they
13 represent. She then stated that Lydia Massey, the Director of Boards & Commissions from the
14 Governor's Office, agreed to try and fill the vacancy on the task force with a self-advocate. Task
15 force members were instructed to direct interested individuals to contact Mark Brainard.

16 Terri Hancharick asked if the advocate had to be a client of DDDS. Co-Chair Hansen stated that
17 was not specifically detailed in the Resolution, so the individual would not have to be a client of
18 DDDS.

19 Rita Landgraf reiterated her offer to mentor the advocate so they could get caught up as soon as
20 possible.

21 A motion was made to approve the November 6, 2019 minutes as presented by Gary Cassedy. The
22 motion was seconded by Rita Landgraf. All in favor, no opposed, the motion carried, 8-0.
23 Representatives Kendra Johnson & Kevin S. Hensley, Senator Anthony Delcollo, Michele
24 Mirabella and Roy LaFontaine, III were not present for the vote.

25 Co-Chair Hansen moved to item number 3 on the agenda, an update on the task force
26 Subcommittees.

27 Laura Strmel, Chair of the Substantiated Incidents Subcommittee, stated that the subcommittee
28 met at 10am on November 20, 2019. Katie Howe and Saundra Hale, both from DDDS, attended
29 the meeting. The subcommittee had requested an updated incident data report from DDDS which
30 was provided and reviewed by the subcommittee members. From this discussion, two additional

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requests were made: DDDS provide the total number of open reports compared to the total number of substantiated incidents reports for fiscal year 2018 and clarification on the number of entities put on probation as a direct result of substantiated incidents. Ms. Howe and Ms. Hale stated that they could produce both documents requested. The subcommittee asked for this clarification because there was some indication that a significant increase of substantiated incidents occurred from 2017-2018.

Laura Strmel stated that the subcommittee would like the task force to consider a recommendation requesting more data be included in the annual reports on substantiated incidents. This additional data should include site/setting information, type of service provider, the number of people served at the site, and the number of provider staff present on the shift during the incident.

A discussion was held by the task force to finalize the language in the recommendation prior to a motion and vote. Bianca Allegro stated an issue may be tracking the staffing at the site given the way the database was currently set up.

Laura Strmel clarified that provider staff was being requested. For example, if an incident occurred with someone receiving the wrong medication at the wrong time, the new information gathered would include how many staff members were present at the location when the incident occurred. With the understanding that this information was not easy to collect, the subcommittee agreed it was worth trying to collect.

Gary Cassedy asked if this change in data collection was just for the life of the task force. Laura Strmel stated that this would be on-going. Gary Cassedy stated that he was unaware that an annual report was produced, and even though it was currently fiscal year 2020, the subcommittee was looking to receive data from fiscal year 2018.

Marissa Catalon clarified that information for fiscal years 2018 and 2019 has been produced and submitted by DDDS.

Gary Cassedy asked that the data collected as a result of this recommendation be available for the public.

Marissa Catalon clarified that the fiscal year 2019 data was different from previous years in how the information was being reported. In fiscal year 2019 there was a differentiation between substantiated incidents and substantiated incidents where the provider was not at fault. The fiscal year 2019 data was a subset of the total number of substantiated incidents.

Laurel Strmel handed out the cumulative report dating back to fiscal year 2016 produced by DDDS. Given that fiscal year 2017 contained data that was collected manually, DDDS stated some of that data may not be completely accurate.

The first recommendation read, "Going forward, when DDDS collects data on substantiated incidents, the data should be stratified by the site/setting of the substantiated incident, the type of

66 service provider, the number of people served at the site, and the number of provider staff present
67 on the shift during the incident. Additionally, the definition of site will be a determined by DDDS
68 and the providers at the monthly provider advisory meeting.” Laura Strmel motioned that the
69 recommendation be adopted. Terri Hancharick seconded the motion. All in favor, no opposed with
70 Marissa Catalon abstaining, the motion carried 9-0-1. Representative Kevin S. Hensley, Senator
71 Anthony Delcollo, Roy LaFontaine, and Michele Mirabella not present for the vote.

72 The second recommendation read, “The annual substantiated incidents report outlined in the
73 November 20, 2019 recommendation approved by the DDDS Task Force will be made available
74 for public consumption and posted on the DDDS website.” The motion was made by Rita Landgraf
75 and seconded by Laurel Strmel. All in favor, no opposed with Marissa Catalon abstaining, the
76 motion carried 9-0-1. Representative Kevin S. Hensley, Senator Anthony Delcollo, Roy
77 LaFontaine, and Michele Mirabella not present for the vote.

78 Kyle Hodges asked what the annual report was capturing, and what the information would be used
79 for.

80 Marissa Catalon clarified that the information in the report was based off the language in line
81 number 25 of Senate Concurrent Resolution 62, and this was the document provided to the
82 subcommittee and the task force was the model for future annual reports, which would include the
83 information requested by the subcommittee and outlined in the resolution.

84 Gary Cassedy asked if these statistics include all incidents involving DDDS recipients regardless
85 of setting and who was providing the service. Marissa Catalon confirmed. Gary Cassedy stated
86 that they should be careful of the language being used to accompany this data, specifically the
87 general term of providers. Marissa Catalon clarified that the data was published in this fashion
88 because DDDS is a service provider. Gary Cassedy said it should be clearer because that is not
89 common knowledge among the public at large, just those affiliated with this process.

90 Co-Chair Hansen moved to an update from the Direct Support Professionals Subcommittee,
91 chaired by Co-Chair Johnson, which last met on Monday November 18, 2019. As the
92 subcommittee was waiting for requested data from DDDS, there were no recommendations to
93 consider. DDDS had contacted providers about turnover rate data as well as wage data and were
94 waiting for the updated information to review. An availability poll had been sent out to
95 subcommittee members for agreeable dates, but no future meeting had been scheduled yet.

96 Co-Chair Hansen continued with an update from the Structure/Leadership Subcommittee, chaired
97 by Allan Zaback. The subcommittee met on November 20, 2019, and while there were no
98 recommendations to consider at this time, some will materialize during the December meetings.
99 Since the subcommittee was unable to acquire the results from the Voice of DHSS survey, the
100 focus had shifted to the possible creation of client surveys and how the information collected would
101 be disseminated and presented. Three additional questions were sent to DDDS, and the
102 subcommittee was waiting for that information. Chair Zaback asked the members of the

103 subcommittee to brainstorm the top three items that they would like part of the recommendations
104 to the task force. The next subcommittee meeting was scheduled for December 4, 2019 at 10 a.m.

105 Co-Chair Hansen asked Holly Vaughn Wagner, JLOSC attorney to clarify the issue surrounding
106 the Voice of DHSS survey results. Holly Vaughn Wagner stated that it was unclear at this moment
107 if DHSS could share the information requested from the survey and advised that because DHSS
108 employees were told that their responses would be kept confidential, it would be possible that
109 survey results from DDDS could identify employees as there are responses about age and other
110 demographic information. The goal of the DHSS survey was to improve the relationship between
111 DHSS and their employees. Additionally, DHSS committed to respondents that the information
112 was being used strictly for their strategic planning purposes and providing it to an outside entity
113 would be changing the agreement after the fact.

114 A member of the public asked if there was a way to provide responses from DDDS employees
115 without including any identifying information.

116 Holly Vaughn Wagner stated that she was unsure if this was possible, but DHSS would still be
117 changing the terms of the agreement originally made to employees who participated. Additionally,
118 in the email sent to DHSS employees about the survey, it stated "All responses will go directly to
119 HMA and will be maintained in the highest confidentiality."

120 LJ Thomas asked if DHSS could give a synopsis of how employees responded.

121 Co-Chair Hansen would like to have someone from the DHSS Secretary's Office attend the next
122 meeting to discuss why the information cannot be provided and clarify if the information was being
123 given to division directors across the departments.

124 Allan Zaback expressed frustration that he was not able to receive this information as it served a
125 purpose for strategic planning within the department and division. He believes there were at least
126 fifteen questions on the survey that would be relevant to the work the subcommittee was
127 conducting.

128 Co-Chair Hansen agreed and believed that the subcommittee and task force should consider a
129 recommendation that permits the division to perform a confidential climate survey of employees.

130 Bianca Allegro asked about the number of employees that took the survey and agreed that the
131 information collected should be shared with the heads of the division so that action could be taken.

132 Marissa Catalon stated that the survey was to help with the DHSS strategic planning process. The
133 information shared with DDDS from the survey was used to help to inform that overall strategic
134 plan.

135 Senator Delcollo added that at the DHSS reorganization committee meeting, he and Senator Nicole
136 Poore inquired about the contents and language of the survey and the meaning behind asking some
137 of the questions posed.

138 Co-Chair Hansen stated that, given some of the overall membership and subject matter, an update
139 on the DHSS reorganization committee would be added on task force agendas for all future
140 meetings.

141 Co-Chair Hansen moved on to the update from the Regulations Subcommittee chaired by Senator
142 Delcollo. Dates were sent out to members of the subcommittee asking for availability. Based on
143 the responses, the first meeting would be held on December 2, 2019 in the conference room of the
144 Carvel Office Building in Wilmington. The time would be confirmed as soon as possible. This
145 first meeting would be an overview of the proposed regulations. Senator Delcollo would like a
146 second meeting to be held in December, with a third meeting held in early January.

147 Co-Chair Hansen moved on to the update from the Prevailing Service Delivery Issues
148 Subcommittee chaired by Michelle Mirabella. The last meeting was November 15, 2019. The
149 subcommittee discussed several issues including risk mitigation and providers being required to
150 take individuals when unable to provide the proper services. Additionally, public comments
151 provided by Thomas Cook were reviewed. The subcommittee submitted four recommendations
152 with four case studies as supplemental information. The first recommendation read, "PROBIS
153 must review each plan that is electronically submitted provided that the plan is submitted two
154 weeks prior to the review date." The second recommendation read, "PROBIS should no longer be
155 allowed to not approve Behavior Support Plans." The third recommendation read, "PROBIS
156 Chairperson(s) should be required to have a minimum of several years of experience writing and
157 implementing behavior support plans in community adult services settings. BCBA accreditation
158 would be the national standard for this position." The fourth recommendation read, "PROBIS
159 needs to return to what it was intended to be, a Peer review committee."

160 Co-Chair Hansen asked if a representative from DDDS had attended any of the subcommittee
161 meetings. Michele Mirabella stated that while no one from the Division had attended any of the
162 meetings in person, the subcommittee had been communicating via email with Stacy Watkins from
163 DDDS with positive results.

164 Subcommittee member LJ Thomas offered insight on an issue he has been having for several
165 months. Specifically, providers being unable to support or implement a plan until approved by
166 DDDS. However, meanwhile, the patient was still in the care of the provider.

167 Marissa stated that DDDS was working with the Behavioral Consultative Providers to review the
168 process. One suggestion to improve the PROBIS process was to add providers to the group, and
169 establish the minimum qualifications required.

170 LJ Thomas states that there should be an emergency intervention given the critical delay within
171 the PROBIS process.

172 Terry Olson agreed, inquiring if it would be feasible for an independent expert with the necessary
173 credentials be brought in to address the backlog and expedite the process.

174 Michele Mirabella stated that a discussion was had by the subcommittee regarding the need to hire
175 additional qualified individuals to help with the backlog of 100 applicants.

176 Marissa Catalon stated that the added PROBIS hearing dates in December should ensure the plans
177 would be approved by December 31, 2019.

178 Michele Mirabella clarified that all plans may not be approved by December 31st because a plan
179 may be found to not be suitable for the individual.

180 Co-Chair Hansen stated that any changes or amendments to a plan should happen during the review
181 to avoid an outright rejection, adding additional time to the process, and leaving an individual
182 without a plan.

183 Michele Mirabella suggested a recommendation that a desk review occur before the PROBIS
184 hearing while expanding the peer group to assist with the backlog of 100 applications.

185 Co-Chair Hansen suggested language that behavior support plans must be desk reviewed by DDDS
186 in the two weeks prior to the meeting with PROBIS and minor technical issues must be
187 communicated back to the provider within three working days of the PROBIS hearing.

188 Thomas Cook states that the recommendation should include language that a plan should not be
189 rejected for minor clerical issues.

190 A member of the public suggested some consistency on what constitutes a rejection since there
191 had been a history of Person A rejecting a plan while Person B approved the same plan.

192 The final language of the first recommendation, to be sent immediately to DDDS in light of the
193 December PROBIS schedule, read, "Behavioral Support Plans are to be desk reviewed by a
194 member of PROBIS in the 2 weeks prior to a PROBIS meeting and any minor, technical
195 corrections must be submitted back to the provider within 3 working days of the PROBIS meeting
196 with the presumption of acceptance by the PROBIS committee upon corrections which may occur
197 at the PROBIS meeting." The motion was made by Kyle Hodges and seconded by Laurel Strmel.
198 All in favor, no opposed with Marissa Catalon abstaining, the motion carried 10-0-1.
199 Representative Kevin S. Hensley, Senator Anthony Delcollo, and Roy LaFontaine were not present
200 for the vote.

201 The second recommendation read, "A report from DDDS on behavioral support plans currently
202 outstanding and the progress towards their approval will be provided at each task force meeting."
203 The motion was made by Kyle Hodges and seconded by Gary Cassedy. All in favor, no opposed

204 with Marissa Catalon abstaining, the motion carried 10-0-1. Representative Kevin S. Hensley,
205 Senator Anthony Delcollo, and Roy LaFontaine were not present for the vote.

206 The third recommendation read, “A working group, comprised of DDDS and the provider
207 community, will be established to redesign PROBIS and its operations.” The motion was made by
208 Michele Mirabella and seconded by Laurel Strmel. All in favor, no opposed with Marissa Catalon
209 abstaining, the motion carried 10-0-1. Representative Kevin S. Hensley, Senator Anthony
210 Delcollo, and Roy LaFontaine were not present for the vote.

211 Co-Chair Hansen moved to the next item on the agenda, the discussion on two draft
212 recommendations provided by Gary Cassedy.

213 The first recommendation stated that DDDS always consider the question, “How can we
214 collaborate with providers, families/guardians, and service recipients of DDDS in relation to this
215 issue?”

216 During the discussion, Co-Chair Hansen stated that there was no longer a quorum, therefore, the
217 two draft recommendations would be placed on the next agenda.

218 Co-Chair Hansen adjourned the meeting at 3:35 p.m.

219 Respectfully prepared by:

220 Amanda McAtee and Mark Brainard, Jr., JLOSC Analysts, Joint Legislative Oversight and Sunset
221 Committee.

222 *Access to the audio recording of this proceeding is available upon request.*